

## § 1108.7

## 49 CFR Ch. X (10–1–15 Edition)

shall promptly inform the Board of the neutral arbitrator's incapacitation and the selection procedures set forth in § 1108.6(c) shall apply.

### § 1108.7 Arbitration procedures.

(a) *Arbitration evidentiary phase timetable.* Whether the parties select a single arbitrator or a panel of three arbitrators, the neutral arbitrator shall establish all rules deemed necessary for each arbitration proceeding, including with regard to discovery, the submission of evidence, and the treatment of confidential information, subject to the requirement that this evidentiary phase shall be completed within 90 days from the start date established by the neutral arbitrator.

(b) *Written decision timetable.* The neutral arbitrator will be responsible for writing the arbitration decision. The unredacted arbitration decision must be served on the parties within 30 days of completion of the evidentiary phase. A redacted copy of the arbitration decision must be served upon the Board within 60 days of the close of the evidentiary phase for publication on the Board's Web site.

(c) *Extensions to the arbitration timetable.* Petitions for extensions to the arbitration timetable shall only be considered in cases of arbitrator incapacitation as detailed in § 1108.6(e).

(d) *Protective orders.* Any party, on either side of an arbitration proceeding, may request that discovery and the submission of evidence be conducted pursuant to a standard protective order agreement.

### § 1108.8 Relief.

(a) *Relief available.* An arbitrator may grant relief in the form of monetary damages to the extent they are available under this part or as agreed to in writing by the parties.

(b) *Relief not available.* No injunctive relief shall be available in Board arbitration proceedings.

### § 1108.9 Decisions.

(a) *Decision requirements.* Whether by a panel of arbitrators or a single-neutral arbitrator, all arbitration decisions shall be in writing and shall contain findings of fact and conclusions of law. The neutral arbitrator shall pro-

vide an unredacted draft of the arbitration decision to the parties to the dispute.

(b) *Redacting arbitration decision.* The neutral arbitrator shall also provide the parties with a draft of the decision that redacts or omits all proprietary business information and confidential information pursuant to any such requests of the parties under the arbitration agreement.

(c) *Party input.* The parties may then suggest what, if any, additional redactions they think are required to protect against the disclosure of proprietary and confidential information in the decision.

(d) *Neutral arbitrator authority.* The neutral arbitrator shall retain the final authority to determine what additional redactions are appropriate to make.

(e) *Service of arbitration decision.* The neutral arbitrator shall serve copies of the unredacted decision upon the parties in accordance with the timetable and requirements set forth in § 1108.7(b). The neutral arbitrator shall also serve copies of the redacted decision upon the parties and the Board in accordance with the timetable and requirements set forth in § 1108.7(b). The arbitrator may serve the decision via any service method permitted by the Board's regulations.

(f) *Service in the case of an appeal.* In the event an arbitration decision is appealed to the Board, the neutral arbitrator shall, without delay and under seal, serve upon the Board an unredacted copy of the arbitration decision.

(g) *Publication of decision.* Redacted copies of the arbitration decisions shall be published and maintained on the Board's Web site.

(h) *Arbitration decisions are binding.* By arbitrating pursuant to these procedures, each party agrees that the decision and award of the arbitrator(s) shall be binding and judicially enforceable in any court of appropriate jurisdiction, subject to the rights of appeal provided in § 1108.11.

### § 1108.10 Precedent.

Decisions rendered by arbitrators pursuant to these rules may be guided by, but need not be bound by, agency precedent. Arbitration decisions shall